UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1992/SR.33/Add.1
8 April 1993

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-fourth session

SUMMARY RECORD OF THE 33rd MEETING
(SECOND PART*)

Held at the Palais des Nations, Geneva,
on Wednesday, 26 August 1992, at 3 p.m.

Chairman: Mr. ALFONSO MARTINEZ

CONTENTS

Consideration of draft resolutions and decisions of the Sub-Commission
(continued)

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* The summary record of the first part of the meeting appears as document E/CN.4/Sub.2/1992/SR.33.

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GE.93-10161 (E)

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS OF THE SUB-COMMISSION (continued)

REVIEW OF THE WORK OF THE SUB-COMMISSION (agenda item 3) (continued) (E/CN.4/Sub.2/1992/L.15)

Draft resolution on methods of work of the Sub-Commission (E/CN.4/Sub.2/1992/L.15)

1. Mr. HATANO, speaking as a member of the inter-sessional Working Group on the methods of work of the Sub-Commission, proposed some drafting amendments to the text of the guidelines set out in the annex to the draft, starting from section II, which concerned the submission and adoption of resolutions and decisions. In guideline No. 8, the subtitle "Number of resolutions and decisions" should be added and, in the fifth line, the words "decisions or resolutions" should be replaced by the words "resolutions and decisions". Guideline No. 9 would have the subtitle "Self-discipline regarding the number of resolutions and decisions" and the words "and decisions" should be added in the second line after the word "resolutions". Guideline No. 10 would have the subtitle "Co-sponsors of resolutions and decisions". In the first line, after the words "draft resolution", the words "or decision" should be added. Guidelines No. 11 and No. 12 would have the following subtitles, respectively: "Consultations by the Chairman" and "Deadline for the submission of draft resolutions or decisions". In addition, in guideline No. 11, the words "or decision" should be added in the first line, after the words "draft resolution", and, in the fifth line, the order of the adjectives "consensus and solemn" should be reversed. In guideline No. 12, the words "and decisions" should be added in the third line, after the word "resolutions". Lastly, in the second line of guideline No. 13, the words "decisions or resolutions" should be replaced by the words "resolutions or decisions", and the following subtitle should be added to guideline No. 18: "Application of the guidelines".

2. He hoped, although he had not had time to consult them, that the other members of the Working Group would accept those amendments and that the Sub-Commission would adopt them without a vote.

3. Mr. YIMER accepted the amendments proposed by Mr. Hatano, since they dealt only with drafting matters and not with the substance of the draft resolution, and he proposed that the Sub-Commission should adopt them forthwith.

4. Mr. TIAN Jin said that the guidelines should be as simple and clear as possible. However, that was not the case with guideline No. 11, it was difficult to know whether that guideline was stating a rule or an exception. However, he would not oppose its retention if the other members of the Sub-Commission so decided.

5. Mr. CHERNICHENKO said that he had no objection to the amendments proposed by Mr. Hatano. However, in his opinion, it should be made clear that the Working Group had decided, during its discussions, to continue at its next session its consideration of issues relating to the methods of work of the Sub-Commission which had not yet been resolved. He therefore proposed the

insertion, as operative paragraph 1, of a new paragraph with the following wording: "Decides to continue at its next session consideration of those aspects of its methods of work which have not yet been discussed". The existing single operative paragraph would therefore become paragraph 2.

6. Mr. BOSSUYT said, with regard to guideline No. 3, that it seemed sensible to set the period of time for carrying out a study at three years from the time of its authorization but that it would also be advisable for the resolutions which envisaged the carrying out of new studies to indicate the financial implications of those studies over a period of three years. In that connection and in order to reduce at the same time the number of resolutions, it would also be useful to combine all the draft resolutions authorizing the carrying out of studies.

7. With regard to paragraph 1 of guideline No. 5, which referred to the author or authors of the study, he thought that in order to avoid complications and additional expenses, it would be preferable for each study to have only one author, it being understood that another member of the Sub-Commission could act as commentator with respect to the study in question. He approved the idea set forth in guideline No. 8 concerning the provision of a comparative table for the previous three years showing the number of resolutions or decisions considered. That would make it possible to have an overall view and hence to know which resolutions the Sub-Commission could reduce in number. Lastly, he noted that no guideline dealt with the rather difficult question of alternates. He wondered whether it would not be advisable for the Sub-Commission to follow the system in force in other bodies, such as the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, the Committee against Torture, the Committee on the Rights of the Child and the International Law Commission, where there were no alternates. He supported the drafting amendments presented by Mr. Hatano as well as the amendment proposed by Mr. Chernichenko.

8. Mr. GUISSE shared the views expressed by preceding speakers concerning the drafting amendments to the text of the draft resolution. With regard to the substance, he had doubts about the usefulness of guideline No. 17 relating to self-discipline. It seemed to him that the members of the Sub-Commission were responsible enough to exercise self-discipline without it being necessary to send them written messages, particularly since, in general, very few exceeded their allocated speaking time. It was perhaps not really necessary to mention that point.

9. Ms. KSENTINI proposed the deletion of the words "as necessary" in the fourth line of guideline No. 4, paragraph 1; in her opinion, they served no useful purpose, in view of the fact that consultations between members of the Sub-Commission were always necessary.

10. Ms. WARZAZI said that she had no objection to the amendments submitted by Mr. Hatano and that she would be prepared to support those proposed by Mr. Chernichenko and Ms. Ksentini. Like Mr. Bossuyt, she thought that the studies should have only one author and she therefore formally proposed that the text of guideline No. 5 should be amended by replacing, at the beginning

of paragraph 1, the words "The author or authors of the study may appoint" by the words "The author of the study may appoint" and, in the third line, the word "its author or authors" by the words "its author".

11. Ms. PALLEY thought it essential not to exclude the possibility, in certain cases, of requesting two members of the Sub-Commission to carry out a study. Any additional costs that might arise as a result were negligible, bearing in mind the rates charged by experts and international jurists in the private sector. The United Nations benefited from very favourable terms and there was therefore no point in trying to make minor savings.

12. Mr. GUISSE said that he would like to know whether the principle of one author per study was valid for ongoing studies or would apply only to future studies. In the second case, he would have no difficulty in approving the amendment proposed by Ms. Warzazi.

13. The CHAIRMAN said that guideline No. 18 stated specifically that the arrangements in question would not take effect until the Sub-Commission's forty-fifth session. Therefore, guideline No. 5 would apply only to rapporteurs who would be appointed subsequently and had no retroactive effect.

14. Ms. ATTAH thought that the Sub-Commission should not take any hasty decision on the proposed amendments. All the proposals made should be examined very carefully. Therefore, she did not see why a study should necessarily have one author in every case; the number of authors of a study could not be fixed in an arbitrary and final manner and, in her opinion, a more flexible formula should be found. That was one of the points which members should ponder at greater length.

15. Ms. WARZAZI said she was not opposed to the idea that a study should have two authors and her amendment was certainly not aimed at Mr. Chernichenko, whose collaboration with Mr. Treat with a view to preparing the report on the right to a fair trial had been highly beneficial for the Sub-Commission. She merely thought that as a general rule a study should be entrusted to only one rapporteur, it being understood that there was nothing to prevent the latter from requesting the assistance of another expert where necessary. That was, in fact, what had happened in the case of Mr. Al-Khasawneh, who had asked Ms. Palley to assist him. However, she would not be in favour of deciding straight away that each study should be entrusted to two rapporteurs.

16. The CHAIRMAN observed that there was nothing in the text of the draft resolution to indicate that the Sub-Commission would be unable, if it so wished, to appoint more than one special rapporteur to carry out a study. For his part, a rapporteur could very well, for one reason or another, request the assistance of another member of the Sub-Commission. Consequently, he did not consider it useful to continue discussing that question, which did not pose a substantive problem.

17. Mr. AL-KHASAWNEH said that on the whole the draft resolution, as amended by Mr. Hatano, was satisfactory, although the guideline on self-discipline was somewhat strange and even superfluous, as Mr. Guissé had quite rightly pointed out. That said, he would like to raise a question which was not addressed in the draft but which seemed to him to be important, namely that of summary

records of meetings. In those records, the statements of experts were sometimes truncated to such a degree that they were unrecognizable and some fine points which the speaker had stressed disappeared entirely. He would like to know what the Sub-Commission intended to do to resolve that problem in the future.

18. With regard to guideline No. 5, although he was not seeking to defend the principle of co-authorship at all costs, he nevertheless thought that the fact of collaborating with another person could make the work more stimulating and that that idea should perhaps not be discarded entirely. Consequently, it would be wiser not to take a firm and final decision on the matter.

19. Ms. KSENTINI said that the discussion to which guideline No. 5 had given rise showed how useful it was for the members of the Sub-Commission to agree during the session not only on the studies to be undertaken but also on the appointment of one or more rapporteurs. For two years, she had been calling upon the Sub-Commission to entrust one of its members, namely the Rapporteur, with the task of collecting all the proposals made during the session and she would therefore like that idea to appear explicitly in the guidelines. Consequently, she proposed that, at the end of guideline No. 4, paragraph 1, the following sentence should be added: "To this end, the Rapporteur of the Sub-Commission shall be entrusted with the task of collecting proposals for studies that are made during the session and informing the Sub-Commission in due time, for the purposes of agreeing and deciding on them".

20. Ms. PALLEY said, in order to dispel any misunderstanding, that it was she who had suggested to Mr. Al-Khasawneh that she might help him carry out a study, knowing how busy he was as an expert on international law and a member of the International Law Commission. It was not he who had made the request.

21. Ms. ATTAH thought that Mr. Guissé's observation concerning guideline No. 17 was very much to the point. In her opinion, that kind of consideration had no place in the guidelines and she therefore formally proposed the deletion of that guideline.

22. Mr. JOINET said, with regard to guideline No. 1, that originally it had been decided that a new study could be undertaken only after the previously authorized studies had been completed. Subsequently, it had been agreed to set a quota of 20 studies, as indicated in paragraph 1. For the sake of consistency, it would therefore be appropriate to replace the words "exceeds the number of studies completed" in paragraph 3 by the words "exceeds 20".

23. Furthermore, he endorsed the majority of the proposals made by the Sub-Commission experts concerning the draft resolution. With respect to guideline No. 4, he expressed the hope that, when rapporteurs were appointed to carry out studies, due regard would be had not only for questions of numerical distribution but also for the motivations of the experts concerned. With that reservation, he was prepared to accept Ms. Ksentini's amendment.

24. Ms. WARZAZI commended Mr. Joinet on his spirit of cooperation and his efforts to arrive at a text that would command a broad consensus. With regard to the number of studies, the figure of 20 mentioned in guideline No. 1 seemed excessive. She wondered whether it would be possible to read so many reports

with the necessary attention. Before taking a position on that guideline, she would therefore appreciate it if the Rapporteur could indicate how many studies the Sub-Commission was to examine during the current year and how many it had been unable to analyse in depth.

25. Mr. BOSSUYT, speaking in his capacity as Rapporteur of the Sub-Commission, said that there were 15 ongoing or proposed studies i.e. the study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms by Mr. van Boven (E/CN.4/Sub.2/1992/8), the working paper on the interrelationship between human rights and international peace prepared by Mr. Bhandare (E/CN.4/Sub.2/1991/32 and Corr.1), the report on the rights of minorities by Mr. Eide (E/CN.4/Sub.2/1992/37), the report on the situation in South Africa which Ms. Attah was entrusted with preparing, the study on human rights and the environment by Ms. Ksentini (E/CN.4/Sub.2/1992/7), the report on discrimination against HIV-infected people or people with AIDS by Mr. Varela Quirós (E/CN.4/Sub.2/1992/10), the working paper on the right to adequate housing by Mr. Sachar (E/CN.4/Sub.2/1992/15), the studies on human rights dimensions of population transfer and on human rights and extreme poverty entrusted respectively to Mr. Al-Khasawneh and Mr. Hatano and to Mr. Despouy, the study on the right to a fair trail by Mr. Treat and Mr. Chernichenko (E/CN.4/Sub.2/1992/24 and Add.1-3), the report on human rights and states of emergency by Mr. Despouy (E/CN.4/Sub.2/1991/23), the study on the question of the impunity of perpetrators of violations of human rights entrusted to Mr. Guissé and Mr. Joinet, the study on the independence of the judiciary by Mr. Joinet (E/CN.4/Sub.2/1992/25, the study on treaties concluded with indigenous populations, which was the subject of a progress report by Mr. Alfonso Martínez (E/CN.4/Sub.2/1992/32), and the study on the protection of intellectual property and cultural property of indigenous peoples, which had been entrusted to Ms. Daes.

26. The CHAIRMAN wondered whether the Rapporteur had fully replied to Ms. Warzazi. It seemed that the Rapporteur had forgotten the five studies which had been completed during the current year and examined during the session, which brought the total number of studies to 20.

27. Ms. KSENTINI said that the Sub-Commission could clearly not examine in the course of one session all the documents before it. It was particularly necessary for the Sub-Commission to have time to examine final reports, which were the most important since they could become United Nations publications. She therefore requested the preparation of a long-term timetable so that the Sub-Commission would not have all the studies before it at the same time.

28. Mr. JOINET said that he, too, thought, like Ms. Warzazi, that the figure of 20 was inflated. A more careful examination made it clear that at the end of the previous session, 10 studies had been under way. Five of those studies had been completed and, therefore, only five more remained to be examined, as well as two periodic reports and two working papers, three if account was taken of Mr. Bhandare's paper, which posed a slight problem since, in view of the fact that Mr. Bhandare was theoretically no longer a member of the Sub-Commission, his travel costs for the mere presentation of a working paper could not normally be borne by the United Nations. It would therefore be more appropriate to fix the number at 15, rather than 20.

29. Mr. SABOIA said that he shared the views expressed by Ms. Warzazi and Mr. Joinet concerning the number of studies. He would like to know if they were formally proposing that the number indicated in guideline No.1, paragraph 1, should be changed.

30. Ms. WARZAZI said that, according to the information provided by the Rapporteur, the number of ongoing or proposed studies was really 12. Therefore, that was the figure which should be mentioned in guideline No. 1, paragraph 1.

31. Mr. BOSSUYT thought that the figure 12 was entirely reasonable. However, since the text of draft resolution E/CN.4/Sub.2/1992/L.15 raised many problems which could not be resolved immediately, he wondered whether a final decision on the matter should not be postponed until a later stage.

32. Mr. JOINET proposed, after having consulted Mr. Yimer and Ms. Warzazi, that the number of studies should be definitively fixed at 13. That figure was not perhaps the most correct but at least it offered a compromise solution and it also had the advantage of being a lucky number.

33. The CHAIRMAN said it was his understanding that the Sub-Commission was prepared to take a decision on draft resolution E/CN.4/Sub.2/1992/L.15. He therefore requested the Secretary of the Sub-Commission to read out all the amendments that had been proposed during the meeting.

34. Mr. LEBAKINE (Secretary of the Sub-Commission) recalled that Mr. Chernichenko had proposed the addition of a new operative paragraph 1, which would read: "Decides to continue at its forty-fifth session consideration of those aspects of its methods of work which have not yet been discussed".

35. The CHAIRMAN said that, if there was no objection, he would take it that the Sub-Commission wished to adopt the amendment proposed by Mr. Chernichenko without a vote.

36. It was so decided.

37. Mr. LEBAKINE (Secretary of the Sub-Commission), referring to guideline No. 1, said that it was proposed to replace the figure 20 by the figure 13 in paragraph 1 and the words "exceeds the number of studies completed" by the words "exceeds 13" in paragraph 3.

38. Ms. KSENTINI said she would welcome clarification on the meaning of the footnote relating to that guideline, since if the reports included those submitted by the Secretary-General, they might quickly mount up to 20.

39. Mr. JOINET explained that in practice the word "study" and the word "report" were often confused. For reasons unknown to him, some documents were called studies, others reports. It was therefore in order not to repeat the words "studies or reports" every time in the text that the footnote had been added.

40. The CHAIRMAN said that the word "study" referred to the analysis of a question entrusted to a Special Rapporteur, who presented the results of his work in several stages in the form of a preliminary report, a progress report and a final report. In any event, that was his interpretation as an expert who had been appointed as Special Rapporteur to carry out a study.

41. Mr. YIMER said that he agreed with the Chairman's interpretation. Therefore, it might perhaps be possible to do without the footnote.

42. Ms. KSENTINI said she found that a good idea and also proposed, in the interests of precision and conciseness, to add the words "entrusted so Special Rapporteurs" in guideline No. 1, paragraph 1, after the words "When the number of ongoing studies". She was prepared to accept the figure 13 proposed by Mr. Joinet if that proposal met with the agreement of the sponsors.

43. Mr. YIMER said that he had no difficulty in accepting that amendment because it made it possible to distinguish between studies entrusted to Special Rapporteurs and reports prepared by the secretariat.

44. Mr. GUISSE said that he approved the proposal to delete the footnote but did not see the point of Ms. Ksentini's amendment. It seemed superfluous to specify that the studies in question had been entrusted to Special Rapporteurs since, by definition, ongoing studies were those which had not yet given rise to a final report.

45. Mr. YIMER said that, in his view, Ms. Ksentini's amendment provided an additional and necessary clarification without affecting the substance of the text; he therefore accepted it without reservation.

46. Mr. LEBAKINE (Secretary of the Sub-Commission) read out the other amendments proposed during the meeting. Ms. Ksentini had suggested the deletion of the words "as necessary" in guideline No. 4, paragraph 1, and the addition at the end of the same paragraph of the following sentence: "To this end, the Rapporteur of the Sub-Commission shall be entrusted with the task of collecting proposals for studies that are made during the session and informing the Sub-Commission in due time, for the purposes of agreeing and deciding on them."

47. The CHAIRMAN said that, if there was no objection, he would take it that the Sub-Commission wished to adopt those two amendments without a vote.

48. It was so decided.

49. Mr. LEBAKINE (Secretary of the Sub-Commission) said that, in guideline No. 5, paragraph 1, it was proposed to replace the words "The author or authors of the study may" by the words "The author of the study may" and the words "its author or authors" by the words "its author".

50. The CHAIRMAN said that, if there was no objection, he would take it that the Sub-Commission wished to adopt the amendment without a vote.

51. It was so decided.

52. Mr. LEBAKINE (Secretary of the Sub-Commission) read out the various amendments to guidelines Nos. 8, 9, 10, 11, 12, 13 and 18 proposed by Mr. Hatano. Those amendments consisted in adding everywhere except in guideline No. 13 the following subtitles: "Number of resolutions and decisions" (guideline No. 8), "Self-discipline regarding the number of resolutions and decisions" (guideline No. 9), "Co-sponsors of resolutions and decisions" (guideline No. 10), "Consultations by the Chairman" (guideline No. 11), "Deadline for the submission of draft resolutions or decisions" (guideline No. 12), and "Application of the guidelines" (guideline No. 18). Mr. Hatano had also proposed the replacement of the words "decisions or resolutions" by the words "resolutions and decisions" at the end of the first sentence of guideline No. 8 and the addition of the words "and decisions" after the word "resolutions" in guideline No. 9 and the words "or decision" after the words "draft resolution" in the first line of guideline No. 10 and in the second line of guideline No. 11. He had also proposed to reverse the order of the words "consensus and solemn", which appeared in the fifth line of guideline No. 11, to add the words "and decisions" after the words "draft resolutions" in guideline No. 12 and, lastly, to reverse the order of the words "decisions and resolutions" in the second line of guideline No. 13.

53. The CHAIRMAN said that, if there was no objection, he would take it that the Sub-Commission wished to adopt the amendments proposed by Mr. Hatano without a vote.

54. It was so decided.

55. Mr. LEBAKINE (Secretary of the Sub-Commission) recalled that another Sub-Commission expert had proposed the deletion of guideline No. 17.

56. The CHAIRMAN said that, if there was no objection, he would take it that the Sub-Commission wished to adopt the amendment without a vote.

57. It was so decided.

58. The CHAIRMAN suggested that the Sub-Commission should adopt draft resolution E/CN.4/Sub.2/1992/L.15 as a whole, as amended, without a vote. If there was no objection, he would take it that the Sub-Commission accepted that proposal.

59. It was so decided.

60. Mr. AL-KHASAWNEH said that no reply had been given to his question concerning summary records. He would like to know what the Sub-Commission planned to do to ensure that those records reflected more accurately the statements made by experts.

61. The CHAIRMAN said that that question would probably be among those to be considered by the Sub-Commission at its forty-fifth session in connection with the review of its methods of work.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1992/L.9, L.13, L.18, L.19-21, L.23, L.26, L.29, L.37, L.41, L.42, L.44 and L.47)

62. Mr. EIDE formally proposed, pursuant to Economic and Social Council resolution 1991/32, that all draft resolutions relating to agenda item 6 which were to be put to the vote should be voted on by secret ballot. That would not, however, exclude the adoption of some of those drafts by consensus, if possible. In response to a question by the Chairman, he said that his proposal essentially concerned substantive questions and not procedural matters which might be raised during the consideration of a draft resolution.

63. Ms. WARZAZI requested that all draft resolutions relating to agenda item 6 should be put to the vote.

64. Mr. DESPOUY agreed that the vote by secret ballot did not apply to procedural motions unless it was a motion to the effect that the Sub-Commission should not take a decision on a proposal, a motion which should normally be put to the vote.

65. The CHAIRMAN said it was his understanding that voting by secret ballot would also apply when a vote was taken on a motion submitted under rule 65 of the rules of procedure. He would like to know whether Mr. Eide's proposal also applied to voting on any amendments to those draft resolutions.

66. Mr. EIDE said that, indeed, where amendments were not accepted by the sponsors of a draft, they were put to the vote and, in that case, the voting should be by secret ballot.

67. Ms. KSENTINI considered that even if in principle, according to Mr. Eide's proposal, voting by secret ballot was excluded for questions of a procedural nature, there was nothing to prevent a member of the Sub-Commission from requesting such a vote when a procedural motion, whatever it might be, was put to the vote.

68. The CHAIRMAN confirmed that any member of the Sub-Commission could, if he saw fit, request a vote by secret ballot on a procedural motion under agenda item 6. Bearing that clarification in mind, and if there was no objection, he would take it that the Sub-Commission accepted Mr. Eide's proposal without a vote.

69. It was so decided.

Draft resolution on the situation in South Africa (E/CN.4/Sub.2/1992/L.9)

70. Mr. YIMER proposed that the Sub-Commission should adopt the draft resolution without a vote.

71. Ms. ATTAH proposed that the existing paragraph 6 should be replaced by the following text: "Calls upon the Government of South African not to proceed with the execution of persons convicted and sentenced to death for so-called 'security', 'security-related' or 'unrest-related' offences". She also proposed the addition of a new paragraph 7 which would read: "Calls upon the Government of South Africa to bring before court on appropriate charges those members of the security forces or other government organs against whom prima facie evidence of participation in the killing of residents in black areas or in the murder of political opponents of apartheid exists". The existing paragraphs 7, 8, 9 and 10 would be renumbered accordingly. She pointed out that the sponsors of the draft resolution had accepted those two amendments.

72. Ms. CHAVEZ said that, as it stood, the new paragraph 7 proposed by Ms. Attah gave the impression that the South African Government was not requested to bring before court perpetrators of acts of violence who were not members of the security forces or other government organs. She therefore proposed, in order to avoid any misunderstanding, that the words "or other persons" should be added after the words "government organs". She hoped that Ms. Attah would accept that minor change.

73. At the request of Mr. Chernichenko, a separate vote was taken on paragraph 9 of draft resolution E/CN.4/Sub.2/1992/L.9.

74. At the invitation of the Chairman, Mr. Guissé and Mr. Sachar acted as tellers.

75. A vote was taken by secret ballot.

76. Paragraph 9 of the draft resolution was adopted by 12 votes to 5, with 3 abstentions.

77. Draft resolution E/CN.4/Sub.2/1992/L.9 as a whole, as revised and amended, was adopted without a vote.

Draft resolution on the situation in the Palestinian and other Arab territories occupied by Israel (E/CN.4/Sub.2/1992/L.13)

78. Ms. CHAVEZ regretted that the terminology used in the draft resolution was, on the whole, not in keeping with the spirit which should prevail at an international peace conference on the Middle East, the convening of which was approved in operative paragraph 8. The words "by all means" which appeared in operative paragraph 5 were particularly infelicitous. It seemed that the human rights violations committed by both sides in the conflict had been forgotten and, in her opinion, the draft resolution certainly did not serve the cause of peace. At a time when a new meeting between the parties concerned was taking place in Washington, it was not for the Sub-Commission to adopt a text that had such political connotations.

79. Mr. EIDE said that he himself was greatly disappointed with the draft resolution which was, in his opinion, very similar to those adopted on the question by the Sub-Commission at previous sessions. A negotiation process

which testified to a change in attitude on the part of the Israeli Government had, however, been initiated, and that new situation should have been taken into account in the draft resolution.

80. At the request of Ms. Chavez, a vote was taken on draft resolution E/CN.4/Sub.2/1992/L.13.

81. At the invitation of the Chairman, Mr. Despouy and Mr. Yimer acted as tellers.

82. A vote was taken by secret ballot.

83. Draft resolution E/CN.4/Sub.2/1992/L.13 was adopted by 11 votes to 6, with 6 abstentions.

Draft resolution on the situation of human rights in Somalia (E/CN.4/Sub.2/1992/L.18)

84. Mr. YIMER proposed that the Sub-Commission should adopt the draft resolution without a vote.

85. Mr. SACHAR and Ms. KSENTINI said that they wished to join the sponsors of the draft resolution.

86. Draft resolution E/CN.4/Sub.2/1992/L.18 was adopted without a vote.

Draft resolution on support for the restoration of democracy in Peru (E/CN.4/Sub.2/1992/L.19)

87. Mr. HATANO said he thought that the present text of the draft resolution was well balanced. He was therefore prepared to be a co-sponsor if it was adopted in its present form, whether by consensus or after a vote.

88. Mr. DESPOUY drew attention to the fact that the draft resolution concerned a Latin American country where the democratization process had been interrupted following the serious events of 5 April 1992, referred to in the second preambular paragraph. The other paragraphs noted with deep alarm the growing criminal activities of terrorist groups and recalled that the Permanent Council of the Organization of American States (OAS) had decided to convene an ad hoc meeting of Ministers for Foreign Affairs of the member countries of that organization to undertake a continuing examination of the changing situation in Peru, a fact which highlighted the importance of the role played by regional institutions. It was noted in that regard that the ad hoc meeting had called on the Government of Peru urgently to restore democratic order, to establish a dialogue with representative political forces and to take the necessary steps to guarantee full respect for and enjoyment of the freedoms of assembly and association, speech and opinion; note was also taken with satisfaction of the undertaking by the Government of Peru to hold general elections on 22 November 1992. The operative part of the draft largely reproduced the provisions in the preamble with regard to the concern caused by the events of 5 April and the criminal activities of terrorist groups, as well as the appeal made by the Permanent Council of the OAS to the Peruvian authorities and its decision to maintain the ad hoc meeting

of Ministers for Foreign Affairs in session in order to ensure constant monitoring of the changing situation in Peru. That situation was particularly alarming since it concerned not only Peru but also all the countries in the region which had recently acceded to democracy. Since the draft resolution failed to reflect the very latest developments in Peru, its sponsors were prepared to accept amendments designed to bring the text up to date. In his opinion, that updating would make it possible for the Sub-Commission to adopt the draft resolution by consensus.

89. Mr. BOSSUYT proposed, in order to take account of the remarks made by Mr. Despouy and to update the draft resolution, the addition at the end of the preamble of a new paragraph which would read: "Extremely concerned about recent reports that the authorities have ended the dialogue with representative political forces". He also proposed the replacement of operative paragraph 10 by the following text: "Calls upon the Peruvian authorities to reopen the dialogue with representative political forces until institutional normalization is restored, human rights are fully respected and representative democracy is completely re-established." He expressed the hope that the sponsors of the draft would accept those two amendments.

90. Ms. WARZAZI said she would like to know the source of the information which had prompted Mr. Bossuyt to propose his amendment. It was her understanding that the President of Peru had taken measures to meet the objections of the political parties. She would like to know Mr. Despouy's thoughts on the matter.

91. Mr. JOINET said that the best procedure would be to request the observer for Peru to provide information on the situation. With regard to operative paragraph 6 of the draft resolution, he thought that it was illogical to pay tribute to the Inter-American Commission on Human Rights for its efforts at cooperation with the Peruvian authorities. Normally, it was the States that were invited to cooperate with multilateral organizations and, as appropriate, commended on their efforts along those lines. He therefore proposed that the paragraph should be replaced by the following text: "Calls upon the Peruvian authorities to strengthen their cooperation with the Inter-American Commission on Human Rights". He also considered that the recent information referred to by Mr. Bossuyt was entirely accurate and that the Sub-Commission should therefore accept the amendment he had proposed and adopt the draft resolution by consensus.

92. Mr. DESPOUY thought that the sponsors of the draft resolution should have no difficulty in accepting the amendments proposed by Mr. Bossuyt, since they updated the draft resolution by referring to a new development, namely the breaking off of the political dialogue which had been under way and which the Government of Peru should be called upon to resume.

93. With regard to operative paragraph 6, he pointed out that the sponsors of the draft resolution had wished to stress the spirit of cooperation which the Peruvian Government should demonstrate while paying tribute to the Inter-American Commission on Human Rights for its action. In view of current

developments, it seemed appropriate to request the Peruvian authorities to strengthen their cooperation with the regional bodies. Mr. Joinet's amendment was therefore entirely justified and the sponsors of the draft would be prepared to accept it.

94. Ms. WARZAZI said she still thought that a tribute should be paid to the efforts made by the Inter-American Commission on Human Rights in order to stress the important role played by the regional commissions and organizations in the solution of regional problems and to encourage them in their action.

95. Mr. HATANO requested a vote on the amendment proposed by Mr. Joinet.

96. Mr. SABOIA said he found Mr. Joinet's proposal quite sensible. However, he believed that it was necessary to stress the efforts made both by the Peruvian authorities and by the Inter-American Commission on Human Rights to establish fruitful cooperation. He therefore proposed that the existing operative paragraph 6 of the draft resolution should be replaced by the following text: "Hails the efforts of the Peruvian authorities to cooperate with the Inter-American Commission on Human Rights and urges those authorities to provide the Commission with their fullest cooperation."

97. Ms. KSENTINI noted that the information on the current situation in Peru was contradictory and thought that, in order to have a more exact idea, the Sub-Commission should perhaps first listen to the observer for Peru or, failing that, the sponsors of the draft if they had additional information. With regard to operative paragraph 6, it was important to know, first of all, whether there had in fact been cooperation between the Inter-American Commission on Human Rights and the Peruvian authorities. That was the main question which required an answer in order for the Sub-Commission to be able to take a decision concerning the wording of the paragraph.

98. The CHAIRMAN recalled that, at the beginning of its work, the Sub-Commission had decided to invite the observer for a State that was the subject of a draft resolution to participate in its discussion of the draft if he so wished before it was put to the vote. Consequently, the observer for Peru could, if she so wished, make a statement, but she was under no obligation to do so.

99. Ms. SILVA y SILVA (Observer for Peru) thanked all the experts of the Sub-Commission for the interest they were taking in her country. Events conducive to the restoration of democracy in Peru had indeed taken place recently. An electoral law which had not been supported by the political parties and representative forces in Peru, had been amended. The dialogue which had been initiated had broken off on 18 August because of the imminence of the general elections to be held to elect the members of a democratic constituent assembly. It should also be pointed out that members of the Inter-American Commission on Human Rights had been able to visit Peru without difficulty and could return there at any time. Peru had always cooperated with all the regional bodies concerned with the defence of human rights and would continue to do so. It was to be noted in that connection that the representatives of the opposition forces would attend the forthcoming meeting of the Council of the OAS on 28 August, to be devoted to consideration of the progress made in the search for means to restore the democratic institutional

order in Peru, which testified to their will to achieve a consensus along those lines. The fact that the OAS had decided to maintain the ad hoc Meeting of Ministers for Foreign Affairs in session in order to ensure constant monitoring of the changing situation in Peru demonstrated the importance which the OAS attached to Peru and to its determination to help that country's Government to restore democracy and respect for human rights. She wished to make it clear that in Peru freedom of the press and opinion was fully exercised and that the Peruvian authorities themselves were sparing no effort to restore democratic order in Peru, as demonstrated by their undertaking to hold national elections under OAS supervision on 22 November 1992.

100. Mr. JOINET thought that the Sub-Commission could adopt without difficulty the amendments proposed by Mr. Bossuyt with a minor drafting amendment concerning the words "have ended the dialogue", which were perhaps too strong and might usefully be replaced by the words "are endangering the dialogue". It was also his understanding that all the members of the Sub-Commission agreed that there was no point in welcoming the cooperation of a regional commission with a Government. Perhaps Mr. Saboia could agree to the Sub-Commission confining itself at the present time to calling upon the Peruvian authorities to strengthen their cooperation with the OAS, thereby implicitly recognizing that such cooperation already existed, and to paying tribute the following year to the Inter-American Commission on Human Rights for its efforts.

101. Ms. PALLEY said that she fully agreed with Mr. Joinet. It was entirely appropriate at the present stage to call on the Peruvian authorities to strengthen their cooperation.

102. Mr. DESPOUY noted that the sponsors of the draft resolution had already accepted the amendments proposed by Mr. Bossuyt and that to change them again might complicate the situation. Operative paragraph 6 was the only obstacle to a consensus on the draft. He himself had no objection to Mr. Joinet's proposal whereby the Peruvian authorities would be called upon to strengthen their cooperation with the Inter-American Commission on Human Rights, but he thought that it would also be appropriate to hail the efforts at cooperation made by the latter with respect to human rights, as suggested by Ms. Warzazi. Consequently, he proposed the addition to the text submitted by Mr. Joinet of the following words: "and welcomes the efforts of cooperation of the latter in regard to human rights". That was the same idea underlying operative paragraph 5 of the draft resolution, which stressed the need to support the action carried out by OAS.

103. Ms. ATTAH supported Mr. Despouy's proposal.

104. Mr. JOINET said he did not see why it was necessary to pay tribute to the spirit of cooperation shown by the Inter-American Commission on Human Rights. It was not the task of that Commission, any more than that of the Sub-Commission itself, to cooperate with States but, rather, to request the cooperation of States. Every effort must be made not to mix up the roles. It was as a matter of principle that he stressed that point. If members really wished to pay tribute to the Inter-American Commission on Human Rights, the Sub-Commission could say that it welcomed the results which that Commission had obtained with the Peruvian Government.

105. Mr. HATANO said that, in view of the discussion to which the draft resolution had given rise, he would prefer his name not to be included in the list of sponsors.

106. The CHAIRMAN invited the sponsors of the draft resolution and the members of the Sub-Commission who had proposed amendments to hold private consultations in order to arrive at a solution which was acceptable to all and which they could submit to the Sub-Commission at its next meeting.

The meeting rose at 9 p.m.